

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI**

A.B.S., as surviving daughter of deceased )  
ANTHONY L. SMITH, and a minor, by )  
and through her next friend CHRISTINA )  
WILSON, )

Plaintiff, )

Case No.: 4:12-cv-00202-JCH

v. )

BOARD OF POLICE COMMISSIONERS, )  
Et al., )

Defendants. )

**PLAINTIFF A.B.S.'S CONSENT MOTION FOR EXTENSION OF TIME AND  
MODIFICATION OF SCHEDULING ORDER**

COMES NOW Plaintiff, by and through her undersigned counsel, and for her Consent Motion For Extension of Time and Modification of Scheduling Order states to the Court as follows:

1. This Court entered its Scheduling Order on April 9, 2018 (Doc. 140).
2. The Court modified the Scheduling Order on June 25, 2018 (Doc. 147) and July 2, 2018 (Doc. 149).
3. The reason for the July 2, 2018 modification was an agreement between Plaintiff and the Board regarding additional documents to be produced in this matter.
4. The additional documents to be produced include, but are not limited to, the complete IAD file maintained by the Board of Police Commissioners, including documents generated by the Federal Bureau of Investigation.
5. In addition to the IAD file, the Board has indicated it will make a limited waiver of attorney-client privilege as to certain documents it previously withheld from its production.

6. Plaintiff has been advised it can expect to receive a draft protective order from counsel for the Board concerning the additional production by the end of the day August 17, 2018.

7. Prior to producing the IAD file, the Board needed to inventory the file and negotiate with the FBI the terms under which the FBI's documents could be produced to the Plaintiff.

8. The Board has generated and provided an inventory of the IAD file to the U.S. Attorney's Office for review and consideration by the FBI.

9. On August 9, 2018, Plaintiff's counsel appeared at police headquarters and made a visual inspection of the documents contained in the IAD file.

10. Per an agreement with the Board's counsel, Plaintiff was not permitted to photograph, copy or take any documents from the IAD file, but was permitted to designate those documents of which Plaintiff desired copies by placing sticky notes on same.

11. Some of the documents from the IAD file requested by Plaintiff are FBI documents and some are not.

12. Production of the FBI documents is currently being negotiated by the undersigned and counsel for the Department of Justice. It is Plaintiff's hope this matter can be resolved without further judicial intervention.

13. The remaining, non-FBI, documents are anticipated to be produced to Plaintiff by the middle of next week.

14. The current scheduling Order, as modified, requires written discovery be completed by August 16, 2018 and motions to compel be filed by August 23, 2018.

15. The parties have been diligently pursuing discovery in this matter and are making cooperative progress.

16. Plaintiff, with the Board's consent, requests a fifteen (15) day extension of both the written discovery completion and motion to compel filing deadlines to facilitate production of the IAD file as well as other documents the Board has agreed to produce subject to a limited waiver of privilege.

17. Plaintiff anticipates extension of additional deadlines in this matter may be necessary in the future as a result of the extensions requested herein but is not requesting same at this time and is committed to getting this matter resolved as swiftly as practicable.

18. It is Plaintiff's good faith belief such extensions will be the most efficient use of judicial resources in that it will allow the parties to narrow the scope of the discovery issues to be resolved by the Court.

19. This Motion is not made for the purpose of delay or any other improper purpose and granting this Motion will not unduly prejudice any party.

WHEREFORE Plaintiff prays this Honorable Court grant Plaintiff's Motion for Extension of Time consistent with the requests set forth above and for such other and further relief as the Court may deem just and proper under the circumstances.

KODNER WATKINS, LC

/s/ Michael D. Schwade

By: ALBERT S. WATKINS, LC #34553MO

MICHAEL D. SCHWADE, #60862MO

The Pierre Laclède Center

7733 Forsyth Blvd., Suite 600

Clayton, Missouri 63105

314-727-9111 (telephone)

314-727-9110 (facsimile)

[albertswatkins@kwklaw.net](mailto:albertswatkins@kwklaw.net)

[mschwade@kwklaw.net](mailto:mschwade@kwklaw.net)

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

Signature above is certification that on this the 16<sup>th</sup> day of August, 2018 a true and correct copy of the foregoing document was filed electronically using the CM/ECF System which will cause a copy to be served upon all counsel of record.